

explicitly apply ch. 785, STATS. Although the trial court did not specify that the contempt statute was applicable, we nevertheless conclude that the trial court's order is a correct use of § 804.12, STATS. Accordingly, we affirm the trial court's order.

The action originates from a judgment of divorce between Burton Davis (hereinafter, Burton) and Elizabeth Schultz-Davis (hereinafter, Elizabeth) finalized in July 1991. Burton filed a motion for modification of support and periods of placement in February 1995. In June 1995, Burton dismissed his attorney and also missed the deadline for compliance with interrogatories and the production of documents. An order to show cause was issued under § 767.305, STATS.² At the August 1, 1995 hearing, the trial court found that Burton's objections to the interrogatories were without foundation or substance. Accordingly, Burton was ordered to: (1) complete interrogatories 7-17 by August 15; (2) pay a \$300 sanction for failing to produce the required documents on time; and (3) pay a Family Court Counseling Services study fee. The contempt order could be purged, however, if Burton answered the interrogatories in the allotted time. Because Burton failed to comply, the trial court entered the order on August 16, 1995.

² Section 767.305, STATS, provides in part:

In all cases where a party has incurred a financial obligation ... and has failed within a reasonable time or as ordered by the court to satisfy such obligation, ... the court may on its own initiative, and shall on the application of the receiving party, issue an order requiring the payer to show cause at some reasonable time therein specified why he or she should not be punished for such misconduct as provided in ch. 785.

On August 17, 1995, Elizabeth filed an order to show cause for contempt for Burton's failing to comply with the August 16 order. Burton also filed a motion to reconsider the prior charges on the same day. On October 10, 1995, Burton filed an order to show cause to compel discovery. At the October 11, 1995 hearing, Burton's motions were denied. Instead, Burton was found in contempt again and sanctioned \$1000 in attorney's fees for his failure to comply with the August 16, 1995 order to answer the interrogatories. Again the contempt order could be purged if answers were supplied to Elizabeth within ten days. Burton appeals.³

Burton contends that the trial court erroneously exercised its discretion. He argues that ch. 785, STATS., should apply and that the second contempt order was issued absent an opportunity to prove compliance, whereas Elizabeth contends that § 804.12, STATS., should apply to the proceeding.

This case requires a determination of whether the trial court erroneously exercised its discretion in imposing sanctions on Burton. Generally, we will look for reasons to sustain a trial court's discretionary decision and may sustain the decision even though the reasoning may have been erroneous or inadequately expressed. See *Schauer v. DeNeveu Homeowners Ass'n*, 194 Wis.2d 62, 70-71, 533 N.W.2d 470, 473 (1995).

³ Burton initially filed a notice of appeal from the entire order entered on November 8, 1995, which was denied as untimely by this court. The trial court denied Burton's motion for relief pending appeal. This appeal stems from our recommendation that Burton appeal only the final orders entered on November 8.

“Whether the ground assigned by the trial judge ... is correct is immaterial if, in fact, the ruling is correct and the record reveals a factual underpinning that would support the proper findings.” *Id.* (quoted source omitted). We conclude that although the trial court did not articulate the statute it was proceeding under, the facts support the imposition of sanctions under § 804.12, STATS., and therefore we affirm the trial court’s imposition of sanctions.

Section 804.12, STATS., provides in part:

- (4) FAILURE OF A PARTY TO ATTEND AT OWN DEPOSITION OR SERVE ANSWERS TO INTERROGATORIES OR RESPOND TO REQUEST FOR INSPECTION OR SUPPLEMENT RESPONSES. If a party or an officer, director, or managing agent of a party or a person designated under s. 804.05(2)(e) or 804.06(1) to testify on behalf of a party fails ... (b) to serve answers ... to interrogatories submitted under s. 804.08, after proper service of the interrogatories In lieu of any order or *in addition thereto*, the court *shall* require the party failing to act ... to pay the reasonable expenses, including attorney fees, caused by the failure, unless the court finds that the failure was substantially justified or that other circumstances make an award of expenses unjust. [Emphasis added.]

Here, Burton missed the initial deadline for the required production of documents and answers to the interrogatories. Additionally, he had been ordered at the August 1 hearing to answer the interrogatories *in full*, which he also failed to do. Burton was again ordered to comply with Elizabeth’s discovery demands at the October 11 hearing. The trial court provided Burton an additional ten days to answer the interrogatories and fined him \$1000 for reasonable attorney's fees. The preceding events support the trial

court's imposition of sanctions for failure to comply with reasonable discovery demands. We conclude that the trial court's order was not an erroneous exercise of discretion, but was a correct application of § 804.12, STATS. We therefore affirm.

By the Court. – Order affirmed.

This opinion will not be published. See RULE 809.23(1)(b)4, STATS.